IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 16929 of 1994

Between:

1 K. Venkata Laxmana Rao, S/o. Venkata Rao,
Peddevam (V), Tallapudi (M), E.G.Dist. (died)

(L.R petition filed by the L.Rs of the deceased first petitioner in W.P.M.P. No. 27774 of 2000 to implead them as L.Rs was dismissed by this Court order dated 8-7-2004)

2 K. Venkata satya Janardana Rao, S/o. Venkata Rao, Peddevam (V).
3 K. Venkata Surya Prakasa Rao, S/o. Venkata Rao, Peddevam (V).
4 K. Annamraju, S/o. Venkata Rao, Peddevam.
5 K. Veeravenkata Krishna Rao, S/o. Venkata Rao, Peddevam.
6 K. Venkata Sreerama chandra Rao, S/o. Venkata Rao, Peddevam (V).
7 K. Venkata Hanumantha Rao, S/o. Venkata Rao, Peddevam .
8 K. Venkata satyanarayana Murthy, S/o. Chalapathi Rao, Peddevam .
9 K.Venkata Suryaprakash Rao, S/o. Chalapathi Rao, Peddevam .
10 K. Sri Venkata Rama Rao, S/o. Chalapathi Rao, Peddevam .
11 R.Prabhakar Rao, S/o. Naryana Rao, Peddevam.
12 N.Venkata Ramanna, S/o. Venkanna, Peddevam.
13 N. Satyanvathi, W/o. Venkata Krishna Rao, Peddavam.

..... PETITIONERS

AND

1 The Govt. of A.P. Rep. By The Dist. Collector, W.G. Dist, Eluru
2 Revenue Divisional Officer, Kovvur , W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction especially in the nature of Writ of Mandamus declaring the action of the respondents in acquiring the petitioner's lands in S.No.128&129 of Peddavam (V), Tallapudi (M),W.G.Dist. as illegal, null and void and for a consequential orders directing the respondents to drop all further

proceedings in that regard.

Counsel for the Petitioner: MR.I.NAGESH

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

W.P. NO. 16929 OF 1994

ORAL ORDER

The petitioners, seeking a writ of mandamus, filed this petition to declare the action of the respondents in acquiring their lands in Sy. Nos. 128 and 129 of Peddavam village, Tallapudi Mandal in West Godavari District as illegal and to consequently direct the respondents to drop all further proceedings in that regard.

The first petitioner filed affidavit on his behalf and on behalf of other petitioners also in support of this writ petition, but while the matter is pending, the first petitioner died and his legal representatives filed WPMP No. 27774 of 2000 to permit them to come on record and to contest the main writ petition, but the same was dismissed.

The case of the contesting petitioners is that, they are all small farmers holding less than Ac.2.00 of land and that they are collectively cultivating Ac. 6.24 of land situated in Sy. No. 129 of Peddavam village which is at a distance of more than 2 KM away from the village houses and in their land there is also a canal and that earlier in the year 1985 Ac.7.08 of land was acquired by the Government and was distributed to houseless poor in the village and at that time a proposal was also made to acquire the lands of the petitioners also, but since the land in question is a wetland and low lying area and in view of existence of burial ground nearby to the land in question, the proposal to acquire the said land was dropped.

It is their further case that though there are several other lands belonging to temple and a matham in their village for acquiring and distributing to the weaker sections, the respondents are now trying to acquire the lands of the petitioners, and to that effect a District Gazette notification under Section 4 of the Land Acquisition Act, 1984(for short 'the Act') was issued by the first respondent in his proceedings No. F.S.W/131/1994 dated 29-7-1994 and the District Gazette dated 6-8-1994 issued by the first respondent in his proceedings No. F.5/131/94 dated 29-7-1994 contains the declaration under Section 6 of the Act, authorising the second respondent to take possession of the land within 15 days. Petitioners filed Xerox copies of the said notifications in support of their contention. It is their grievance that both the notifications under Sections 4 and 6 of the Act were given on the same date i.e. 29-7-1994 and that the petitioners were not served with any notice to that effect and that no enquiry was made under Section 5-A of the Act and in fact, it was dispensed with. Therefore, for all these reasons, the entire proceedings are to be declared as null and void.

This Court while admitting the writ petition, on 26-9-1994 granted interim stay of all further proceedings with regard to the dispossession of the petitioners from the lands in question, in W.P.M.P. NO. 20993 of 1994.

Learned counsel for the petitioners contended that in view of simultaneous notifications under Sections 4 and 6 of the Act, and since the petitioners are small farmers, the proceedings are bad in law.

Therefore, keeping in view of the averments made in the petition and the material placed before this Court, and since the petitioners were not served with notice as contemplated under Section 5-A of the Act, it would be suffice in the interests of justice, if an opportunity is given to the petitioners to file an affidavit before the authorities concerned within four weeks from the date of receipt of

copy of this order by raising all their objections which they raised in this writ petition and on filing of such affidavit by the petitioners, the respondents are directed to consider their grievance and conduct enquiry as required under Section 5-A of the Act and in accordance with law, within a period of six weeks thereafter. Till such time, the interim stay granted earlier by this Court shall continue, if the petitioners are still in possession of the said land.

With the above direction, the writ petition is disposed of. No costs.

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kvsn 26-08-2004

To

1 The Dist. Collector, W.G. Dist, Eluru
2 Revenue Divisional Officer, Kovvur , W.G.Dist.

3 The G.P. for Revenue, High Court Buildings, Hyderabad.

4 Two CD Copies.